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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

5

Application Number

10/821,383

Filing Date

04/09/2004

First Named Inventor

Christopher H. Porter

Art Unit

3763

Examiner Name

Aamer S. Ahmed

Attorney Docket Number

203/505 US; MB-104

ENCLOSURES (Check all that apply)



Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)



Reply to Missing Parts/
Incomplete Application



Reply to Missing Parts
under 37 CFR 1.52 or 1.53



Drawing(s)



Licensing-related Papers



Petition



Petition to Convert to a
Provisional Application



Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

☐ Landscape Table on CD

Remarks



After Allowance Communication to TC



Appeal Communication to Board
of Appeals and Interferences



Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)



Proprietary Information



Status Letter



Other Enclosure(s) (please identify
below):

Postcard

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Freilich, Hombaker & Rosen

Signature

Printed name

Arthur Freilich

Date

16 February 2006

Reg. No.

19,281

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

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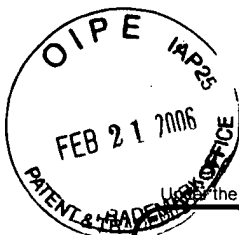
Arthur Freilich

Date

16 February 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2006

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 0.00

Complete if Known

Application Number	10/821,383
Filing Date	04/09/2004
First Named Inventor	Christopher H. Porter
Examiner Name	Aamer S. Ahmed
Art Unit	3763
Attorney Docket No.	203/505 US; MB-104

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 501232 Deposit Account Name: Freilich, Hornbaker & Ros

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

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FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Fee (\$)
50

Small Entity Fee (\$)
25

Each independent claim over 3 (including Reissues)

200

100

Multiple dependent claims

360

180

Total Claims Extra Claims Fee (\$)

- 20 or HP = x =

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$)

- 3 or HP = x =

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims

Fee (\$)

Fee Paid (\$)

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$)

- 100 = / 50 = (round up to a whole number) x =

Fees Paid (\$)

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge):

SUBMITTED BY

Signature

Registration No.
(Attorney/Agent) 19,281

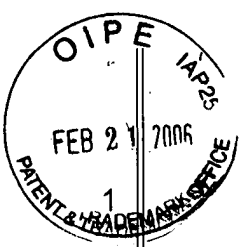
Telephone 818-678-6408

Name (Print/Type) Arthur Freilich

Date 16 February 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Christopher H. Porter

Examiner : Aamer S. Ahmed
Art Unit: 3763

Applic.: 10/821,383

Filed: 04/09/2004

For: PERCUTANEOUSLY IMPLANTABLE
MEDICAL DEVICE CONFIGURED TO
PROMOTE TISSUE INGROWTH

Commissioner for Patents
Alexandria, VA 22313-1450

AMENDMENT

The Office Action dated 11/16/2005 has been carefully studied. It is noted that claims 1-9, 13, and 15-21 have been rejected under 35 U.S.C. 102(b) as anticipated by de Groot and claim 14 has been rejected under 35 U.S.C. 103 as unpatentable over de Groot in view of Ellis. Favorable reconsideration is courteously requested.

Applicants' invention is directed to a medical device intended to be surgically implanted in a patient's body. The device includes a stud configured to project percutaneously outward through the patient's skin. In accordance with the invention, the stud longitudinal peripheral surface carries a longitudinally extending porous layer (e.g., 70 in Figure 5). Additionally, a shoulder surface (oriented perpendicular to the stud longitudinal surface) carries a laterally extending porous layer (e.g., 80 in Figure 5). The longitudinally and laterally extending porous layers are configured to promote tissue ingrowth along perpendicular surfaces which together form an especially effective bacteria resistant barrier and create a very effective anchoring for the device. It is respectfully submitted that the cited de Groot reference fails to suggest the use of perpendicular porous layers.

Accordingly, the Examiner is courteously requested to reconsider the de Groot teachings in view of Applicant's comments herein. De Groot describes a percutaneous implant comprised of a subcutaneous part 1 and a percutaneous part 10. The subcutaneous part 1 comprises a mesh sheet 2 which functions to promote tissue ingrowth. Note in de

1 Groot Figure 2 that the mesh sheet 2 is implanted substantially parallel to the patient's skin
2 20. The mesh sheet 2 carries a holding member 3 which includes a round hole having an
3 internal screw thread 4. The percutaneous part 10 comprises a tubular structure having an
4 external screw thread 14 configured to mate with the holding member internal screw thread 4.
5 A hollow tube 30 for transferring fluids extends through the bore of the tubular structure 10.

6 As noted in de Groot column 5, line 4, "during the healing process, the skin 20 will
7 adhere to the percutaneous part 10" (i.e., the longitudinal surface of the tubular structure 10)
8 "in a manner comparable to the manner in which gums adhere to a tooth". Thus, de Groot
9 fails to suggest the use of a porous layer on the longitudinally extending surface of the
10 percutaneous tubular structure for promoting tissue ingrowth. Rather, de Groot's teaching of
11 using a mesh sheet for promoting tissue ingrowth is limited to subcutaneously implanting the
12 sheet substantially parallel to the user's skin. Accordingly, de Groot fails to suggest
13 applicants' teaching of providing porous layers extending both longitudinally and laterally for
14 enabling tissue ingrowth along perpendicular surfaces to enhance bacteria resistance and
15 device anchoring.

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1 It is urged that Applicants' independent claims clearly recite the features distinguishing
2 the present invention over de Groot. More particularly, note that applicants' independent
3 claim 1 is limited to an implantable medical device having a stud configured to project
4 percutaneously through a patient's skin in which a porous layer is mounted on the stud
5 longitudinal surface and on a shoulder surface oriented substantially perpendicular to the
6 longitudinal surface. Independent method claim 16 is similarly limited. Inasmuch as neither
7 de Groot nor Ellis suggest the provision of substantially perpendicular porous layers for
8 promoting tissue ingrowth and enhancing bacteria resistance and anchoring, it is courteously
9 urged that all of the pending claims patentably distinguish the invention. Accordingly,
10 favorable reconsideration is respectfully requested

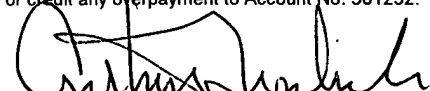
11
12 Respectfully submitted,

13 

14 ARTHUR FREILICH
15 Reg. No. 19, 281
16 Attorney for Applicant(s)
17 FREILICH, HORNBAKER & ROSEN
18 9045 Corbin Avenue Suite 260
19 Northridge, CA 91324-3343
20 TEL. 818-678-6408 • FAX 818-678-6411

21
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23
24
25 **DEPOSIT ACCOUNT AUTHORIZATION:**

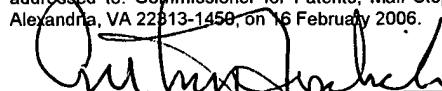
26 Throughout the prosecution of this application the Patent and Trademark
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28 or credit any overpayment to Account No. 501232.



ARTHUR FREILICH, Reg. No. 19,281

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ARTHUR FREILICH